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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 809,021	03 16 2001	Hubert Metzner	06478.1452	5147

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EXAMINER

MELLER, MICHAEL V

ART UNIT PAPER NUMBER

1651

DATE MAILED: 06 20 2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/809,021

Applicant(s)

METZNER ET AL.

Examiner

Michael V. Meller

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 18-38 is/are pending in the application.
- 4a) Of the above claim(s) 20-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18, 19 and 35-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.

Attachments

Notice of Draftsperson's Patent Drawing Review (PTO-948)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

Notice of Informal Patent Application (PTO-152)

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of Group I in Paper No. 9 is acknowledged. The traversal is on the ground(s) that since the method of using the composition of claim 18 depends on claim 18 that should be examined with claim 18. This is not found persuasive because of the reasons of record. The examiner has already laid out the reasons for restriction. Unless applicant can present evidence as to why the reasons are allegedly false, then the reasons of record for restriction stand as they are.

This application contains claims 20-34 which are drawn to an invention nonelected with traverse in Paper No. 9. A complete reply to the final rejection must include cancelation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

The requirement is still deemed proper and is therefore made FINAL.

Specification

is stated that applicants are to do so if the section headings apply which they clearly do.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 18 and 35-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Hanada et al. for the reasons of record and for the reasons which follow.

Applicant alleges that Hanada teaches thrombin which is not suitable for therapeutic purposes since when the thrombin and the benzamidine are in contact with one another the composition has not been subjected to dry heating to inactivate pathogenic viruses. While this is very interesting, the claim is drawn to a composition, not a method of making the composition. The composition is the composition. The same composition as that which is claimed is taught in Hanada. Simply because the composition has not been heat treated at the stage at which applicant feels it should does not change the fact that the composition of Hanada and the claimed invention are one and the same.

Claim 38 is rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Hanada et al.

The thrombin composition is taught by the reference for the above reasons. It is not clear what the pH of the composition is in the reference. It is set forth that the composition is from 5-8.

Claim Rejections - 35 USC § 103

Claims 18, 19 and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanada et al. in view of Brezniak et al. and Altshuler for the reasons of record and for the reasons which follow.

The arguments concerning Hanada are above.

Applicant argues that Brezniak teaches away from using calcium salt but the fact of the matter is that Brezniak teaches that sodium chloride is preferred but not that calcium salt is harmful just not as desirable as sodium chloride.

Applicant also argues that Altshuler teaches that calcium salt is not desirable, but the fact of the matter is that calcium chloride is noted as being used to stabilize dry or powdered form of the thrombin composition. Altshuler does use sodium chloride in the body of the patent and there is nothing to negate the effectiveness of calcium chloride as argued by applicant, especially in view of the fact that calcium chloride is noted as being well known to be used to stabilize dry and powdered forms of thrombin.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time provisions that apply to this

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Meller whose telephone number is 703-308-4230. The examiner can normally be reached on Monday thru Friday: 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn can be reached on 703-308-4743. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0294 for regular communications and 703-308-0294 for After Final communications.

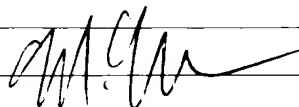
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-

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Michael V. Meller

Examiner

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MVM

June 19, 2002